



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: McBer and Company

File: B-225453

Date: February 11, 1987

DIGEST

Protest against total small business set-aside is denied where protester argues that small businesses are by virtue of their size less qualified than large businesses to perform, but does not show that contracting officer's determination that offers will be received from at least two responsible small businesses was unreasonable.

DECISION

McBer and Company protests the Navy's designation of request for proposals (RFP) No. N00600-86-R-5787 as a total small business set-aside. The RFP sought offers for leadership and management education and training services for 1 base year and 2 option years. McBer argues that it is not in the government's interest to set the procurement aside since small businesses by virtue of their size will not be able to deliver as high quality service as would a large business. We deny the protest.

The Federal Acquisition Regulation (FAR), 48 C.F.R. § 19.502-2 (1986), directs that an acquisition be set aside for exclusive small business participation if the contracting officer determines that there is a reasonable expectation that offers will be obtained from at least two responsible small businesses and award will be made at a reasonable price. The decision to set aside a procurement is basically a business judgment within the broad discretion of the contracting agency, so we will not question a set-aside decision unless an abuse of discretion is clearly shown. Anchor Continental, Inc., 65 Comp. Gen. 270 (1986), 86-1 CPD ¶ 137.

McBer, in essence, contends that the contracting officer, in considering whether to set the procurement aside, should have taken into account the impact of the small business set aside upon the quality of the work that would be provided.

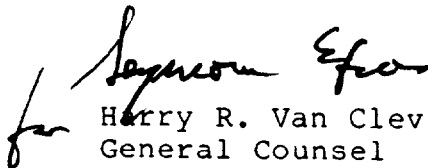
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Specifically, McBer says that in this case a small business will not be able to perform the training services because a business which is small enough to meet the applicable small business size standard of \$3.5 million in average annual receipts would need to devote so substantial a percentage of its annual business and staff to this one contract that it would have no other clients or work. Further, the protester argues that a small business will not have the corporate experience in prior contracts required by the solicitation and will most likely have to subcontract at least part of the effort to a large business because most small businesses simply do not possess the resources to do the job themselves.

McBer has cited no authority for its proposition that a contracting officer must make a comparative evaluation of the qualifications of potential small business and large business offerors and determine which can better perform the service before deciding to set a procurement aside, and we are aware of none. The regulations do require that the contracting officer determine that at least two responsible small businesses can be expected to submit offers. FAR, 48 C.F.R. § 19.502-2. In this regard, the agency need not make a determination tantamount to an affirmative determination of responsibility. It is only obligated to make an informed business judgment that there is a reasonable expectation of receiving offers from small firms that are capable of performing the contract. Fermont Division, Dynamics Corporation of America, et al., 59 Comp. Gen. 533 (1980), 80-1 CPD ¶ 438. While the protester says it will do a better job than any small business, it does not argue that small business would be unable to perform and it has not shown that the contracting officer's judgment to set this procurement aside was unreasonable.

Finally, as far as McBer's complaint that a portion of the services might be subcontracted to a large business is concerned, we note that subcontracting with a large business under a service contract set aside for small business is not legally objectionable. Industrial Disposal Systems, Inc., B-220493, Oct. 17, 1985, 85-2 CPD ¶ 419.

The protest is denied.


for Harry R. Van Cleve
General Counsel